

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

PAJTIM MEXHUANI,

Plaintiff,

-against-

ROYAL-PAK SYSTEMS, INC., et al.,

Defendants.

ORDER

20-CV-04625 (PMH)

PHILIP M. HALPERN, United States District Judge:

The Court held an Initial Pretrial Telephone Conference this morning; counsel for Plaintiff and counsel for Defendant Schneider Electric USA, Inc. appeared.

On December 10, 2020, Plaintiff's counsel filed a letter advising that Plaintiff had passed away and requesting that the action be stayed as counsel applied for Letters of Administration. (Doc. 27). By endorsement dated December 14, 2020, the Court denied the request for a stay and directed counsel "to comply with Federal Rule of Civil Procedure 25(a)." (Doc. 28). The Court set the date for the Initial Pretrial Telephone Conference that same day. (Doc. 29). Federal Rule of Civil Procedure 25(a)(1) instructs as follows:

If a party dies and the claim is not extinguished, the court may order substitution of the proper party. A motion for substitution may be made by any party or by the decedent's successor or representative. If the motion is not made within 90 days after service of a statement noting the death, the action by or against the decedent must be dismissed.

The ninety-day clock triggered by the December 10, 2020 letter expired on March 10, 2020. No motion for substitution—or request to extend the time within which to make such a motion—was filed during that period.

During the April 21, 2021 conference, Plaintiff's counsel advised that they were still in the process of securing Letters of Administration and requested that this matter be dismissed without

prejudice. This matter is accordingly dismissed in its entirety without prejudice under Federal Rules of Civil Procedure 25(a)(1) and 41(a)(2).

SO ORDERED:

Dated: White Plains, New York
April 21, 2021

A handwritten signature in black ink, appearing to read 'Philip M. Halpern', with a long, sweeping horizontal stroke extending to the right.

PHILIP M. HALPERN
United States District Judge